@#@#@#@#@#@#@

HONOURABLE SRI JUSTICE B.PRAKASH RAO
AND
HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

REV.W.P.M.P.No.13831 of 1999 and

WRIT PETITION NO:16963 of 1988

DATED: 29-11-2006

Between:

Tobacco Board, rep.by its Secretary, Guntur.

..... PETITIONER

AND

1. The Government of Andhra Pradesh, rep.by its Secretary, Labour, Employment and Tech.Education Department, Secretariat, Hyderabad and 2 others.

.....RESPONDENTS

@#@#@#@#@#@#@

COMMON ORDER: (per The Hon'ble Sri Justice Ramesh Ranganathan)

Review W.P.M.P.No.13831 of 1999 has been filed to review the order passed by this Court in W.P.No.16963 of 1988 dated 03-10-1996. This Court dismissed W.P.No.16963 of 1988 filed

against the award of the Labour Court in I.D.No.48 of 1987 dated 03-06-1988.

The third respondent in the writ petition was appointed as a Sweeper in 1983. Her services were terminated on 12-07-1985. Aggrieved thereby, on her cause being espoused by the union, a dispute was referred to the Labour Court. The order of reference reads thus:

> "Whether the termination of services of Smt.P.Venkata Subbamma, Sweeper by the Auction Superintendent, Tobacco Board Auction Plant form No.26 Kandukur is justified?"
>
> "If not, to what relief the worker is entitled?"

The Labour Court held that the claimant was a part time sweeper appointed on a monthly salary of Rs.75/- and that her services were terminated in view of the appointment of a permanent sweeper, that the claimant had worked for a period of 22 months and her services were terminated without giving prior notice and without payment of compensation and without holding any enquiry. The Labour Court held that her termination was illegal. Having so declared the Labour Court went further in taking note of the fact that one Smt.Veeramma, who was working as a Sweeper and was appointed only in the month of June, 1985, had been absorbed as a full time Sweeper, and directed that the workman be absorbed as a full time sweeper in the minimum time scale of pay of a sweeper with immediate effect. In its order in W.P.No.16963 of 1988 this

Court, taking note of the fact that the Labour Court had directed reinstatement of third respondent upon holding her termination to be illegal, held that as the third respondent was only a sweeper getting a salary of Rs.75/- per month, it did not see any ground to interfere with the order of the Labour Court.

Sri S.Venkata Reddy, learned Senior Counsel for the review petitioner, would submit that the award of the Labour Court is beyond the scope of the reference. Learned Senior Counsel would submit that, since the dispute referred to the Tribunal for its adjudication was as to whether termination of services of the third respondent was justified or not and if not to what relief she was entitled to, even if her termination was held to be illegal the only relief which the third respondent was entitled to was for reinstatement into service in the post which she held prior to her services being terminated. Learned Senior Counsel would submit that since the third respondent was working only as a part time sweeper she was entitled only to be reinstated as a part time sweeper and that the direction of the Industrial Tribunal-cum-Labour Court, Guntur, to absorb her as a full time sweeper in the minimum time scale of pay of sweeper with immediate effect, was beyond the scope of reference and was illegal.

We find consideration force in this submission of the learned Senior Counsel. The Tribunal, under the Industrial Disputes Act, is

a Court of limited jurisdiction and its jurisdiction is limited by the scope of the reference under Section 10 of the Industrial Disputes Act. Since the only question referred for adjudication of the Tribunal was whether termination of the third respondent was illegal, even on the reference being answered in favour of the workman, she would only be entitled for reinstatement in the post which she held prior to her termination, i.e., as a part time sweeper. The Tribunal exceeded its jurisdiction in directing the review petitioner to absorb the third respondent as a full time sweeper in the minimum time scale of pay of a Sweeper with immediate effect.

The Review WPMP is allowed. The order of this Court in W.P.No.16963 of 1988 dated 03-10-1990 is set aside. W.P.No.16963 of 1988 is allowed and the award of the Industrial Tribunal-cum-Labour Court, to the limited extent it directed the review petitioner herein to absorb the third respondent as a full time sweeper in the minimum time scale of pay of Sweeper with immediate effect, is quashed.

Sri P.Govinda Rajulu, learned counsel for the third respondent, would submit that subsequent to the order of this Court, the review petitioner herein had, on its own accord, regularized the services of the third respondent.

It is made clear that the order now passed by us would not preclude the review petitioner herein, if it so chooses, from

absorbing the third respondent as a full time Sweeper. Both Review W.P.M.P.No.13831 of 1999 and W.P.No.16963 of 1988 are allowed. However, in the circumstances, without costs.

_____

B.PRAKASH RAO, J

_____

RAMESH RANGANATHAN, J

29th November, 2006

SKM